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C O N F I D E N T I A L ANKARA 003206

SIPDIS

DEPARTMENT FOR EUR/SE

E.O. 12958: DECL: 06/09/2014
TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#)
SUBJECT: COURT RELEASES ZANA, CO-DEFENDANTS; APPEAL
CONTINUES

REF: ANKARA 2294 AND PREVIOUS

Classified by Deputy Polcouns Charles O. Blaha; reasons 1.4 b
and d.

¶11. (U) Turkey's High Court of Appeals June 9 ordered the release of Leyla Zana and three other Kurdish former MPs pending the outcome of their appeal. The Court made its decision one day after the defendants' attorney filed a formal release request. The Court is scheduled to take up the appeal July 8.

¶12. (U) The defendants -- Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak -- are all former MPs of the now-banned pro-Kurdish-independence Democracy Party. They were convicted of being members of the PKK and sentenced to 15 years each by an Ankara State Security Court (SSC) in a controversial 1994 trial. The European Court of Human Rights (ECHR) ruled in 2001 that the 1994 trial was unfair, and a retrial was granted in March 2003 following GOT enactment of an EU-related reform under which ECHR rulings are grounds for a possible retrial in a Turkish Court. On April 21, 2004, an Ankara SSC re-convicted the defendants, upholding the 1994 ruling. The defense appealed.

¶13. (C) At each session of the 13-month retrial, lead defense attorney Yusuf Alatas requested that the court release the defendants pending the outcome of the retrial. The court refused each request, prompting Alatas to argue repeatedly that the court was biased against his clients and failed to acknowledge the ECHR ruling in their favor. Turkish human rights activists and outside observers criticized the court's conduct. A number of EU officials warned GOT leaders in private that the defendants' continued imprisonment damaged Turkey's image in Europe. Egemen Bagis, AK Party MP and foreign policy advisor to PM Erdogan, confided to us recently that the GOT recognized the political impact of the issue and had tried unsuccessfully to persuade the court to release the defendants during retrial.

¶14. (U) On June 7, the High Court of Appeals Chief Prosecutor submitted a written opinion to the Court calling for the defendants' conviction to be overturned on the grounds of irregularities in the retrial. The document was leaked to the press. The prosecutor's opinion is not binding on the court.

¶15. (U) The defendants were convicted under the Anti-Terror Law, which requires that convicts serve three-fourths of their sentence. Based on the dates of their original incarcerations, the sentences for Zana, Dicle and Dogan would expire in March 2005, and Sadak's sentence would expire in October 2005.

Comment

16. (C) It appears likely that the Appeals Court will overturn the conviction and make this release permanent. Though the prosecutor's opinion is non-binding, prosecutors and judges in Turkey usually work together in lock step, particularly in SSC cases. It is highly unusual for a prosecutor's written opinion to be leaked to the press. The GOT is under intense EU pressure on this issue, and the quickest way to relieve that pressure is to release the defendants. Though the legal process continues, European interest will wane once Zana et al are no longer behind bars.

EDELMAN